

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

TEXAS ALLIANCE FOR RETIRED
AMERICANS; SYLVIA BRUNI; DSCC; and
DCCC,

Plaintiffs,

v.

RUTH R. HUGHS, in her official capacity as
the Texas Secretary of State,

Defendant.

CIVIL ACTION NO. 5:20-cv-128

DECLARATION OF HEIDER GARCIA
TARRANT COUNTY ELECTIONS ADMINISTRATOR

I, Heider Garcia, pursuant to 28 U.S.C. § 1746, testify that:

1. My name is Heider Garcia. I am the duly appointed Elections Administrator in Tarrant County, Texas. I have served in this capacity since February 2018. I am over the age of 21 years and have knowledge of the facts stated herein and am qualified to make this statement.
2. Following the Friday, September 25, 2020 ruling by the Honorable Federal Judge regarding straight party voting, I have been asked to describe the logistics issues in the Tarrant County November 2020 elections that would come into play if it is necessary to alter the election ballots from those already tested and approved locally to a format that returns a straight party vote option to the ballots.
3. Tarrant County has almost 1.2 million registered voters, a number that is rapidly growing by the day as we approach the October 5, 2020 deadline to register to vote in the General Election. Tarrant County is divided into 729 election precincts, and uses 50 Early Voting locations, 332 Election Day Locations and approximately 3,000 voting machines to run a county-wide election. Tarrant County provides ballots in English, Spanish, and Vietnamese.

4. Candidate filing closed on August 28, 2020. Because of the postponement of local elections such as municipal and school district elections from May 5, 2020 (due to COVID-19), the ballots for the elections this November have more than 100 races and propositions added somewhere within the county that would not have been on a November ballot but for the postponement. Depending on where a voter lives in the county, they will have some of these elections on their ballot while a person living in another part of the county will have other local races on their ballot. The overall result of this is that Tarrant County has 1,992 different ballot styles to use in the election this November. A ballot style is a combination of contests and propositions that is unique to one of the 729 election precincts, or, when subdivided, a sub-precinct. While a single election precinct may not be split so that voters in the precinct are represented by more than one of certain officials, local entities such as school districts may have territories drawn in a way that split election precincts into more than one piece. In such a split precinct, a sub-part of a precinct may vote in a particular local race or measure while another part of the same precinct might not.
5. As of this declaration, the Tarrant County Elections Department has already generated more than 60 thousand ballots, at least 57,545 of which have already been placed in the mail to voters who are either out of the county or who qualify for mail voting due to some other legal reason under Texas law. The ballots are heading to the voters. There is nothing that I, as the Tarrant County Elections Administrator, can do to stop those 57,545 ballots from reaching the voters that have requested them. I expect some of those voters to vote their ballots during the September 26-27 weekend, and to mail them back immediately or to return them in person to the Elections office as early as Monday, September 28. As a point of comparison, during the entire 2016 Presidential Election cycle, Tarrant County mailed out a total of 43,857 ballots, which means that 28 days before the deadline to request ballots by mail Tarrant County has already seen a 31.2% increase in the demand for the service. The mail ballots and the electronic ballots are part of one overall system that works together. And, the multiple local races and local measures in elections being overseen by the county Elections Administrator are now part of the same overall system. A change to any part of the ballot thus impacts the entire mail voting system and the entire electronic system, and impacts not only federal elections but all the state and local elections. Some of this is a practical consideration relating to how the system is set up and some is a result of legal requirements.
6. Reprogramming the elections system to add the straight party option would require the following activities be completed before any corrected ballot (mail or electronic) could be generated:

- Reconfigure the system to add the straight party option. (estimated time 2 days)
- Conduct (again) the statutory Logic and Accuracy Test and the Public Test. These tests are required by the Texas Elections Code and cannot be bypassed. Because these tests are the ultimate guarantees that all 1,992 ballot designs are accurate, ballots are not sent until the test is successfully completed. (estimated time 5 days after ballots are reconfigured and approved by the various local authorities)

Assuming these activities can be completed in 7 days (which is an aggressive timeline and assumes no problems), new ballots, whether electronic or paper mail/absentee, would likely be created October 5 or later.

7. October 5, 2020 is the day delivery of pre-programmed equipment to the Early Voting locations is scheduled to begin. The entire logistics of distributing equipment and already configured machines to voting locations would have to be compressed from 6 days to 3 or 4, so that machines could be programmed, tested, and sealed in containers. The necessary chain of custody documentation would have to be prepared in 2 days. If this is not completed as described, some locations may not be ready to process voters on the day the locations are required to begin voting. There is no guarantee these tasks can all be successfully completed before October 13, the day early voting in person is to start. Thus, some voters might be turned away from the polls on the day early voting in person is supposed to begin.
8. Each county will have different logistical issues regarding the creation and purchase of their voting materials. In Tarrant County, the biggest issue would be the replacement of the statutory-compliant, printed specialty envelopes needed for mail voting. Supplies used to print the mail voting materials, specifically the official envelopes that comport with the strict statutory requirements, would need to be purchased again. And, the envelopes would have to be printed again. The envelopes are county-specific and must follow statutory restrictions. In Tarrant County, the system set up for this election cycle is that the envelopes are purchased through and printed by a vendor with expertise in producing election supplies. The envelope vendor chosen by the county through official purchasing procedures was contacted on the evening of September 25 - as soon as I heard of the federal Judge's ruling in Laredo - about the lead time for replacing the over 57 thousand envelopes already used. Following my discussion with the vendor, I understand that the time for obtaining envelopes would be 4 weeks, maybe 3 if things go well. This means that an order placed on Monday September 28 would be fulfilled around October 23, and with the limited stock left Tarrant County would run out of envelopes and stop sending ballots to voters before that date, even if new ballots were available. This also assumes the envelope vendor would be able to schedule a large batch to be printed again swiftly. It is my understanding that ballot print shops are currently very busy printing ballots and voting supplies for jurisdictions all over the nation. The larger print jobs, such as envelopes for

Tarrant County ballots, are, in my experience, harder for a printer to quickly reschedule than the smaller print jobs. If more supplies must be ordered, more funds will be required. If the official vendor cannot supply the needed supplies or cannot print them timely, I do not know what my other options might be to try to get through the required purchasing procedures and find a qualified vendor/printer. Purchasing of government supplies is not normally a rapid process due to state and local requirements governing purchasing. As we have not attempted to prepare the complex envelopes in-house, I do not know if there is any way to do that rapidly and correctly in compliance with the strict laws on ballot envelopes.

9. Logistical issues inherent in redoing ballots at this point in the election process include: repurchasing/reprinting envelopes and all the cost and time issues that involves; reprogramming and retesting voting machines and slowing down their placement; potential disruption to the availability of early voting in person because machines are not timely available; voters receiving a second ballot by mail that now offers them a choice of straight party voting when they have already received and possibly voted the already-dispatched mail ballots that do not have this choice; and perhaps the biggest disruption of all: voters possibly not receiving any ballot by mail timely if the mail-outs are slowed at this time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 26, 2020.

/s/ Heider Garcia

Heider Garcia
Tarrant County Elections Administrator